# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/903,075 | 07/10/2001 | Kemal Guler | 10014768 | 9384 |

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| 7590 02/13/2006 | | EXAMINER |
| HEWLETT-PACKARD COMPANY | | CHANDLER, SARA M |

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| Intellectual Property Administration | ART UNIT | PAPER NUMBER |
| P.O. Box 272400 | | |
| Fort Collins, CO 80527-2400 | 3628 | |

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | Application No. | Applicant(s) |
|---|---|---|
| ***Office Action Summary*** | 09/903,075 | GULER ET AL. |
| | Examiner | Art Unit | |
| | Sara Chandler | 3628 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *10 July 2001*.

2a)☐ This action is **FINAL**.       2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-24* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☒ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 July 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 09902928. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only clear distinction between the two applications is that Application No. 09903075 refers to determining an "optimal auction format" and Application No. 09902928 refers to determining a "reserve price". The determination of a reserve price is linked to the optimal auction format selected.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the citizenship of each inventor. Joint inventor Tongwei Liu failed to include citizenship.

### *Drawings*

The drawings are objected to because the pages of the drawing sheets are not numbered; the headings (e.g., FIGURE 1 etc.) should have a larger font; and the diagram labeled "Internet 1099" on FIGURE 10 should be typed, or more clearly reproduced. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date

of an application must be labeled in the top margin as either "Replacement Sheet" or

"New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in

the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required.  See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the
disclosure.

The abstract should be in narrative form and generally limited to a single
paragraph on a separate sheet within the range of 50 to 150 words.  It is important that
the abstract not exceed 150 words in length since the space provided for the abstract
on the computer tape used by the printer is limited.  The form and legal phraseology
often used in patent claims, such as "means" and "said," should be avoided.  The
abstract should describe the disclosure sufficiently to assist readers in deciding whether
there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information
given in the title.  It should avoid using phrases which can be implied, such as, "The
disclosure concerns," "The disclosure defined by this invention," "The disclosure
describes," etc.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 10-12 and 18-20 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

Claims 2,10, 18 recite the limitation "said bids data" in lines 22,5 and 11,

respectively.  There is insufficient antecedent basis for this limitation in the claim.

Claims 3,11,19 recite the limitation "said auction characteristics data" in lines 4 and 8;

10 and 14; and 17 and 21, respectively.  There is insufficient antecedent basis for this

limitation in the claim.  Claims 4, 12 and 20 recite the limitation "said bids data" in lines

14,17 and 18; 20,1 and 2; and 5,9 and 10, respectively.  There is insufficient antecedent

basis for this limitation in the claim.

## Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

**Claims 1,3,6,9,11,14,17, 19 and 22** are rejected under 35 U.S.C. 102(e) as

being anticipated by Seymour, U.S. Pat. No. 6,871,190.

**Re Claim 1:** Seymour discloses a method for determining an auction format for

a market, said method comprising the steps of:

selecting characteristics of said market (See Seymour, Col. 5, lines 31-36);

selecting a relevant bidding model (See Seymour, Col. 4, lines 49-51, "A series

of bidding and selling strategies are then generated for each type of auction type");

estimating a structure of said market (See Seymour, Col.4, lines 30-49 and Col.

5, lines 11-15);

predicting a bidding behavior (See Seymour, Col. 5, lines 7-15, The

recommendations to the seller and/or bidder regarding how to bid and/or sell is based

on a prediction of the bidding behavior of the various bidders);

predicting a first outcome of said market (See Seymour, Col. 6, lines 56-59, "The

input data is transmitted to the processing unit of the seller site terminal and the

optimum type of auction for sale of such merchandise is determined (e.g., Sealed bid,

Vickery, English or Dutch)." In order to determine the optimum auction format the data

regarding the auction including the seller, bidders and merchandise is used to evaluate

and compare what the predicted outcome would be for each auction format (e.g. Sealed

bid, Vickery, English or Dutch);

and evaluating said first outcome of said market (See Seymour, Col. 6, lines 56-

59, "The input data is transmitted to the processing unit of the seller site terminal and

the optimum type of auction for sale of such merchandise is determined (e.g., Sealed

bid, Vickery, English or Dutch)." In order to determine the optimum auction format the

data regarding the auction including the seller, bidders and merchandise is used to

evaluate and compare what the predicted outcome would be for each auction format

(e.g. Sealed bid, Vickery, English or Dutch).

**Re Claim 9:** Seymour discloses a computer system comprising (See Seymour,

Figs. 2 and 3, Inherently the computer system of Seymour comprises a bus, memory

interconnected to said bus and a processor interconnected with said bus. Figs. 2 and 3

provide a graphical illustration of how the system works) :

a bus (See Seymour, Figs. 2 and 3);

a memory interconnected with said bus (See Seymour, Figs. 2 and 3);

and a processor interconnected with said bus, wherein said processor executes

a method for determining an auction format for a market (See Seymour, Figs. 2 and 3),

said method comprising the steps of:

selecting characteristics of said market (See Seymour, Col. 5, lines 31-36);

selecting a relevant bidding model (See Seymour, Col. 4, lines 49-51, "A series

of bidding and selling strategies are then generated for each type of auction type");

estimating a structure of said market (See Seymour, Col.4, lines 30-49 and Col.

5, lines 11-15);

predicting a bidding behavior (See Seymour, Col. 5, lines 7-15, The language of

the patent is interpreted broadly. The recommendations to the seller and/or bidder

regarding how to bid and/or sell is based on a prediction of the bidding behavior of the

various bidders);

predicting a first outcome of said market (See Seymour, Col. 6, lines 56-59, "The

input data is transmitted to the processing unit of the seller site terminal and the

optimum type of auction for sale of such merchandise is determined (e.g., Sealed bid,

Vickery, English or Dutch)." In order to determine the optimum auction format the data

regarding the auction including the seller, bidders and merchandise is used to evaluate

and compare what the predicted outcome would be for each auction format (e.g. Sealed

bid, Vickery, English or Dutch);

and evaluating said first outcome of said market (See Seymour, Col. 6, lines 56-

59, "The input data is transmitted to the processing unit of the seller site terminal and

the optimum type of auction for sale of such merchandise is determined (e.g., Sealed

bid, Vickery, English or Dutch)." In order to determine the optimum auction format the

data regarding the auction including the seller, bidders and merchandise is used to

evaluate and compare what the predicted outcome would be for each auction format

(e.g. Sealed bid, Vickery, English or Dutch).

**Re Claim 17:** Seymour discloses a computer readable medium for causing a

computer system to execute the steps in a method for determining an auction format for

a market  (See Seymour, Col. 5, lines 6-15, Seymour discloses the use of software

usable on a computer readable medium to be executed by a processor), said method

comprising the steps of:

selecting characteristics of said market (See Seymour, Col. 5, lines 31-36);

selecting a relevant bidding model (See Seymour, Col. 4, lines 49-51, "A series

of bidding and selling strategies are then generated for each type of auction type");

estimating a structure of said market (See Seymour, Col.4, lines 30-49 and Col.

5, lines 11-15);

predicting a bidding behavior (See Seymour, Col. 5, lines 7-15,  The language of

the patent is interpreted broadly.  The recommendations to the seller and/or bidder

regarding how to bid and/or sell is based on a prediction of the bidding behavior of the

various bidders);

 predicting a first outcome of said market (See Seymour, Col. 6, lines 56-59, "The

input data is transmitted to the processing unit of the seller site terminal and the

optimum type of auction for sale of such merchandise is determined (e.g., Sealed bid,

Vickery, English or Dutch)." In order to determine the optimum auction format the data

regarding the auction including the seller, bidders and merchandise is used to evaluate

and compare what the predicted outcome would be for each auction format (e.g. Sealed

bid, Vickery, English or Dutch);

and evaluating said first outcome of said market (See Seymour, Col. 6, lines 56-

59, "The input data is transmitted to the processing unit of the seller site terminal and

the optimum type of auction for sale of such merchandise is determined (e.g., Sealed

bid, Vickery, English or Dutch)." The language of the patent is interpreted broadly. In

order to determine the optimum auction format the data regarding the auction including

the seller, bidders and merchandise is used to evaluate and compare what the

predicted outcome would be for each auction format (e.g. Sealed bid, Vickery, English

or Dutch).

**Re Claims 3,11 and 19:** Seymour further discloses the

method/system/computer readable medium, wherein said selecting a relevant bidding

model step comprises the steps of:

receiving said auction characteristics data(See Seymour, Col. 5, lines 29-36);

accessing a database (See Seymour, Col. 5, lines 21-25, The patent discusses

data gathering exercises. A database is being accessed to retrieve the data);

retrieving from said database a relevant bidding model (See Seymour, Col. 4,

lines 49-51, "A series of bidding and selling strategies are then generated for each type

of auction type"), wherein said bidding model is selected based on a corresponding

relevance of said auction characteristics data (See Seymour, Col. 5, lines11-15, Input

data is processed and used to determine the optimum values for the reserve bid price

and for the starting bid price); and

outputting said relevant bidding model (See Seymour, Col. 6, lines 56-65, The

optimum values for the reserve bid price and for the starting bid price are displayed for

the seller).

**Re Claims 6,14 and 22:**  Seymour further discloses the

method/system/computer readable medium, wherein said predicting a first outcome of

said market step comprises the steps of:

receiving a second user input, wherein said second user input comprises the

step of (See Seymour, Col. 6, lines 56-59):  an evaluation criterion (See Seymour, Col.

4, line 67, Col. 1-2, Col. 6, lines 56-59, From the language of the patent the evaluation

criteria used to determined the optimum type of auction is based on an evaluation of the

profit generated or loss incurred);  a candidate auction format (See Seymour,Col. 6,

lines 56-59); and  a constraint (See Seymour,Col. 6, lines 56-59, The mention of

"strategy parameters" is interpreted to mean that there are constraints placed);

receiving said estimated structure (See Seymour, Col.4, lines 30-49 and Col. 5,

lines 11-15);

receiving said bidding behavior prediction for said candidate  auction format,

wherein said bidding behavior prediction further comprises a prediction under said

constraint (See Seymour, Col. 5, lines 7-15, The recommendations to the seller and/or

bidder regarding how to bid and/or sell is based on a prediction of the bidding behavior

of the various bidders);

obtaining a value of said evaluation criterion, wherein said value is based on said

estimated structure, said bidding behavior prediction, said candidate auction format, and

said constraint, said value comprising said first predicted outcome (Seymour, Col. 4,

line 67; Col.5, lines 1-2 and 11-15; Col. 6, lines 56-59,  There must be a value for the

evaluation criterion (e.g., profit generated or loss incurred) in order to compare the

different selling strategies.  Further, this value is able to change depending on specific

data inputs which influence the estimated structure, bidding behavior prediction,

candidate auction format and said constraint); and

outputting said value ((Seymour, Col. 6, lines 63-67, discussion of a display

screen and customer confirmation).

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4.    Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 2,5,10,13,18 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Seymour, U.S. Patent No. 6,871,190 in view of Shoham, U.S. Patent No. 6,285,989.

**Re Claims 2,10 and 18:**  Seymour further discloses the method/system/computer readable medium as recited in Claim 1, wherein said selecting characteristics of said market step comprises the steps of:

receiving a first user input, wherein said first user input comprises information identifying an item to be auctioned (See Seymour, Col. 6, lines 42-50);

accessing a database (See Seymour, Col. 5, lines 21-25, The patent discusses data gathering exercises.  A database is being accessed to retrieve the data); and

retrieving from said database auction characteristics data (See Seymour, Col. 5, lines 29-36),

Seymour fails to explicitly disclose wherein said selecting characteristics of said market step comprises the steps of:  retrieving from said database historical bids data; wherein said auction characteristics comprise information relating to historical auctions of similar items; and outputting said auction characteristics data.

Shoham discloses wherein said selecting characteristics of said market step comprises the steps of:

retrieving from said database historical bids data (See Shoham, Col.14, lines 25-32, There is a discussion regarding the retrieval of statistics and results of auctions; and time stamps for the events record of historical data);

retrieving from said database auction characteristics data, wherein said auction characteristics comprise information relating to historical auctions of similar items (See Shoham, Col. 14, lines 25-32);

outputting said bids data (See Shoham, Col. 14, lines 25-32); and

outputting said auction characteristics data. (See Shoham, Col. 14, lines 25-32).

It would have been obvious to one of ordinary skill in the art to modify the teachings of Seymour to include the teachings of Shoham. As Shoham suggests retrieving data (e.g., historical bids data, auction characteristics data) and outputting data (e.g., bids data, auction characteristics data) is necessary for analysis, auditing and publication. Also, as Shoham suggests the ability to retrieve and output data is beneficial when modifying the software to provide relevant auction formats in different situations. The motivation would have been to continuously improve and adapt the software.

**Re Claims 5,13 and 21:** Seymour further discloses the method/system/computer readable medium, wherein said predicting a bidding behavior step comprises the step of:

outputting a prediction of bidding behavior (See Seymour, Col. 5, lines 7-15, The patent is interpreted broadly. The recommendations to the seller and/or bidder

regarding how to bid and/or sell is based on a prediction of the bidding behavior of the various bidders).

Seymour fails to explicitly disclose wherein said bidding model has embedded an unknown structure; wherein said predicting a bidding behavior step comprises the steps of: receiving said estimated structure; receiving said relevant bidding model; and substituting said estimated structure for said unknown structure.

Shoham discloses wherein said bidding model has embedded an unknown structure (See Shoham, Col. 13, lines 48-50, The factors (e.g., rules,constraints) associated with each bidding model allow the specific structure of the market to be changed or augmented. The estimated structure applied generally to each bidding model can be adapted to the unknown structure of a particular auction); and

wherein said predicting a bidding behavior step comprises the steps of:

receiving said estimated structure (See Shoham, Col. 13, lines 1-6 and lines 32-45 and 38-42. Shoham is interpreted as disclosing that bidding models differ in terms of both the services; and the market and system conditions required. Factors (e.g., rules,constraints) such as minimum bids, bidding increments, length of rounds are relevant in creating an appropriate structure for the different bidding models). Thus, for each estimated structure received there is relevant bidding model that is also received);

receiving said relevant bidding model (See Shoham, Col. 13, lines 1-6 and lines 32-45 and 38-42. Shoham is interpreted as disclosing that bidding models differ in terms of both the services; and the market and system conditions required. Factors (e.g., rules,constraints) such as minimum bids, bidding increments, length of rounds are

relevant in creating an appropriate structure for the different bidding models). Thus, for each estimated structure received there is relevant bidding model that is also received);

and substituting said estimated structure for said unknown structure (See Shoham, Col. 13, lines 48-50, The factors (e.g., rules, constraints) associated with each bidding model allow the specific structure of the market to be changed or augmented. The estimated structure applied generally to each bidding model can be adapted to the unknown structure of a particular auction).

It would have been obvious to one of ordinary skill in the art to modify the teachings of Seymour to include the teaching of Shoham because Shoham teaches a specific way to implement the predicting a bidding behavior step already introduced in Seymour. The motivation would have been to provide sellers and bidders with predictions regarding the bids likely to occur so as to aid their selection of the type of auction format to engage in different market situations.

**Claims 4,7,8,12,15,16,20,23 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Seymour as discussed above.

**Re Claims 4,12 and 20:** Seymour further discloses the method/system/computer readable medium, wherein said estimating a structure of said market step comprises the steps of:

receiving said relevant bidding model (See Seymour, Col. 4, lines 49-51, "A series of bidding and selling strategies are then generated for each type of auction type");

receiving said bids data (See Seymour, Col. 5, lines 21-25, The patent discusses data gathering exercises and it can be inferred that a data base is accessed to retrieve the data).

Seymour fails to explicitly disclose a method wherein said estimating a structure of said market step comprises the steps of: expressing unobservable variables in terms of observable bids, wherein said unobservable variables are expressed in terms of observable bids by inverting said bid model; transforming said bids data to a sample of inverted bids,wherein said bids data are transformed by inverting said bid model; estimating an estimated latent structure of said market, wherein said sample of inverted bids receives application of statistical density estimation techniques to obtain said estimated structure; and outputting said estimated structure. Official Notice is taken however, that: to express unobservable variables in terms of observable variables; to create a sample of the data; to use the sample to generate a statistical distribution of the sample data; to make estimates or assumptions about the market; and to report upon or generate an output of the results is old and well-known. It is common practice in fields such as mathematics, statistics and economics to use these methodologies for the purpose of using historical data, reasonable assumptions, etc.to make predictions or estimations about the future (e.g., economic predictions, research studies). Thus, it would have been obvious to one of ordinary skill in the art to modify the teachings of Seymour in light of the Official Notice for the purpose of estimating the structure of said market based on the historical data on record.

**Re Claims 7,15 and 23:** Seymour further discloses the method/system/computer readable medium, wherein said evaluating said first outcome of said market step comprises the steps of:

receiving a third user input, wherein said third user input comprises a plurality of candidate auction formats (See Seymour, Col. 6, lines 56-59);

Seymour fails to disclose a method wherein said evaluating said first outcome of said market step comprises the steps of: receiving a predicted outcome for each said candidate auction format; calculating descriptive statistics for each said candidate auction format, wherein said descriptive statistics comprise a mean and a variance; ranking each said candidate auction format with respect to said calculated mean and generating corresponding rankings for said plurality; and outputting said descriptive statistics and said rankings. Official Notice is taken that receiving a predicted outcome for different scenarios; calculating statistics for each scenario (e.g., mean, variance); ranking scenarios in ascending or descending order in regards to which is the best option; and reporting upon or generating an output of the results is old and well known. It is common practice is fields such as mathematics, statistics and economics to use these methodologies for the purpose of comparison and decision-making (e.g., product purchase decisions; evaluating business opportunities etc.). Thus, it would have been obvious to one of ordinary skill in the art to modify the teachings of Seymour in view of the Official Notice for the purpose of evaluating an auction format, comparing different auction formats and ultimately making a decision about the optimal auction format.

**Re Claims 8,16 and 24:**    Seymour further discloses a

method/system/computer readable medium, wherein said evaluating said first outcome

of said market step comprises the steps of:

selecting a best auction format, wherein said best auction format comprises the

candidate auction format within said plurality having the highest said ranking (See

Seymour, Col. 6, lines 56-59); and

outputting said best auction format (See Seymour, Col. 6, lines 56-59 and Col. 6,

lines 63-65. The optimum auction format is determined and displayed on the screen for

the seller).

Thus, it would have been obvious to one of ordinary skill in the art to modify the

teachings of Seymour in view of the Official Notice for the purpose of evaluating an

auction format, comparing different auction formats and ultimately making a decision

about the optimal auction format.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to

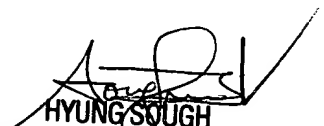applicant's disclosure:  Rackson et al., U.S. Patent No. 6,415,270.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sara Chandler whose telephone number is 571-272-

1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hyung Sough can be reached on 571-272-6799. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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